



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 9, 1996

Ms. Jennifer Jacobs
Bracewell & Patterson, L.L.P.
100 Congress Avenue, Suite 1900
Austin, Texas 78701-4052

OR96-0159

Dear Ms. Jacobs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 22089.

The Tomball Independent School District (the "school district"), which you represent, has received a request for "[a] copy of the Deloitte [*sic*] and Touche report, which was shared with the Board of Trustees." You state that the summary of the Deloitte and Touche report has been made available to the requestor but that the school district objects to the release of the "complete confidential report" under section 552.111 of the Government Code.¹

Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In a recent opinion that reexamined the section 552.111 exception, this office concluded that section 552.111 excepts from public disclosure:

¹Although you refer to section 552.112 in your brief to this office, we assume by your arguments and your reference to former V.T.C.S. article 6252-17a, section 3(a)(11) that you intended to raise section 552.111, not section 552.112.

only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body at issue. [It] does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda.

Open Records Decision No. 615 (1993) at 5 (copy enclosed). Furthermore, in order for information to come within the section 552.111 exception, the information must be related to the policymaking functions of the governmental body. *Id.* "An agency's policymaking functions do not encompass routine internal administrative and personnel matters" *Id.*

You contend that the report "contains numerous recommendations, advice, and opinion concerning the operation and organization of the district" and that the report "will be used by the board and the District's administration in changing policies and making organizational changes." You also assert that the report "refers to global policy matters on the entire structure of the administration of the District" not to one particular employee or event.

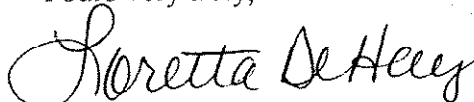
In Open Records Decision No. 631 (1995) (copy enclosed), this office considered whether a consultant's report concerning a university's overall faculty hiring and retention policies was excepted from required public disclosure under section 552.111. We determined "that the policymaking functions of a governmental body include advice, recommendations, and opinions regarding administrative and personnel matters of *broad scope that affect the governmental body's policy mission.*" Open Records Decision No. 631 (1995) at 3 (emphasis added). The report at issue did not pertain solely to internal administration of the university. The scope of the report was determined to involve the university's educational mission because it related "to the university's policies concerning affirmative action and how it will meet the needs of a diverse student body." *Id.*

Although the information submitted for our view is relatively broad in scope, there is only a small portion that affects the school district's policy mission: "Part 12.0 Program Evaluation" concerning the school district's curriculum, curricular programs, and instructional delivery. For your convenience we have flagged and marked the information that may be withheld under section 552.111 as "advice, recommendations, and opinions regarding administrative and personnel matters of broad scope that affect the governmental body's policy mission." The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Loretta R. DeHay". The signature is written in a cursive, flowing style.

Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/ch

Ref.: ID# 22089

Enclosures: Open Records Decision Nos. 615, 631
Marked documents

cc: Tomball Independent School District
C/o Winnie Williamson
President
Tomball Educators Association
221 West Main
Tomball, Texas 77375
(w/o enclosures)